

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EDWARD C. TIDWELL,

No. C-13-2621 EMC

Plaintiff,

**ORDER DISMISSING ACTION**

v.

JPMORGAN CHASE BANK, N.A., *et al.*,Defendants.  

---

On October 8, 2013, this Court granted two motions to dismiss – one filed by Defendants NRT, LLC and its subsidiary Valley of California, Inc. and one filed by JPMorgan Chase Bank, N.A. (on behalf of Chase Home Finance LLC and JPMC Specialty Mortgage LLC). (Dkt. No. 83). Specifically, the Court granted both motions, with prejudice, as to Plaintiff’s Federal Insurance Deposit Act (Count 1) and Real Estate Settlement Procedures Act (Count 2) claims for failure to state a claim. (*Id.* at 19). The Court then noted that to the extent its order eliminated all the federal claims in the case, it was “inclined to refuse to exercise supplemental jurisdiction over Plaintiff’s state law claims.” (*Id.* at 18). The Court based this latter determination on the “early nature of these proceedings and the fact that an adverse ruling against Plaintiff on related (and in places identical) state law claims is currently on appeal before the California Court of Appeals.” (*Id.*)

However, there were three defendants who did not join in either motion to dismiss – Cal-Western Reconveyance Corp., Homesale, Inc., or Prommis Solutions, LLC. The Court noted that it was “unclear to what extent Plaintiff intended to assert his *federal* causes of action or on what basis such a claim would be based. It appears to the Court that Plaintiff only intended to assert his two

1 federal causes of action against the Chase Defendants and Coldwell Banker.” (*Id.* at 18). Out of an  
2 abundance of caution, however, the Court ordered Plaintiff to show cause as to whether he was  
3 attempting to assert his FDIA or RESPA claim against Cal-Western Reconveyance Corp.,  
4 Homesale, Inc., or Prommis Solutions, LLC. (*Id.* at 19). Plaintiff’s response to this order to show  
5 cause was due on October 25, 2013. (*Id.*) Plaintiff has not responded.

6 The Court can find no indication in Plaintiff’s complaint that Plaintiff intended to assert any  
7 federal causes of action against Cal-Western Reconveyance Corp., Homesale, Inc., or Prommis  
8 Solutions, LLC. The Court’s October 8, 2013 order therefore disposed of all federal claims raised in  
9 this action. In light of this fact, the Court declines to exercise supplemental jurisdiction over  
10 Plaintiff’s remaining state law claims against the remaining defendants, and dismissed them without  
11 prejudice, for the reasons stated in its October 8, 2013 order. *See S. Cal. Painters & Allied Trades,*  
12 *Dist. Council No. 36 v. Rodin & Co.*, 558 F.3d 1028, 1036 (9th Cir. 2009) (“Because the district  
13 court appropriately dismissed all of the federal claims, it acted within its discretion in declining to  
14 resolve the state law claims under its supplemental jurisdiction.”); *see also Acri v. Varian Assocs.,*  
15 *Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997) (“[I]n the usual case in which all federal-law claims are  
16 eliminated before trial, the balance of facts . . . will point toward declining to exercise jurisdiction  
17 over the remaining state-law claims.” (quoting *Carnegie-Mellon University v. Cohill*, 484 U.S. 343,  
18 350 n.7 (1988))). These claims will be dismissed without prejudice.

19 Accordingly, Plaintiff’s action is **DISMISSED**. This dismissal is with prejudice as to  
20 Plaintiff’s first and second cause of action against the Chase Defendants (JP Morgan Chase Bank,  
21 N.A., Chase Home Finance LLC, JPMC Specialty Mortgage LLC) and as to all claims against the  
22 Coldwell Banker defendants, Valley of California, Inc. and NRT, LLC.<sup>1</sup> All state law claims against  
23 the Chase Defendants, Cal-Western Reconveyance Corp., Homesale, Inc., or Prommis Solutions,  
24 LLC are dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(3).

---

25  
26  
27 <sup>1</sup> On October 21, 2013, Plaintiff filed a notice of voluntary dismissal, dismissing his claims,  
28 with prejudice, against “Coldwell Banker Residential Brokerage Company, Coldwell Banker  
Residential Corporation, Valley of California, Inc. and NRT, LLC.” (Dkt. No. 85, at 2).  
Accordingly, the Court **DISMISSES** these defendants with prejudice.


1 Defendant Homesale, Inc.'s motion to set aside default filed on September 30, 2013, is  
2 **DENIED** as moot.

3 The parties shall bear their own costs. *See Champion Produce, Inc. v. Ruby Robinson Co.,*  
4 *Inc.*, 342 F.3d 1016,1022 (9th Cir. 2003) (recognizing a district court may deny a prevailing party  
5 costs where the losing party has "limited financial resources").

6 The Clerk of Court shall enter judgment and close the file in this case.

7  
8 IT IS SO ORDERED.

9  
10 Dated: November 1, 2013

11   
12 EDWARD M. CHEN  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28